

WEDNESDAY, January 12, 1853.

The Senate was called to order by the President, pursuant to adjournment. The following Senators answered to their names:

Messrs. Amstrong, Bogart, Dancy, Davis, Day, Duggan, Ford, Grimes, Hart, Hill, Mensebach, Miller, Parker, Reaves, Scott, Taylor, Truit and Wilson.

The Journal of yesterday was read and adopted.

On motion of Mr. Wilson, the Hon. M. M. Potter, Senator elect from District No. 18, composed of the counties of Galveston and Brazoria, presented his credentials and took the oath prescribed by the constitution and his seat.

Nominations for Enrolling Clerk being in order, Mr. Day nominated William H. Parsons; Mr. Ford nominated Edwin Nash, and Mr. Amstrong nominated James M. Davis.

Messrs. Hill and Reaves were appointed tellers. Mr. Parsons received 8 votes, Mr. Davis received 6 votes, Mr. Nash received 5 votes.

No one candidate having received a majority of all the votes, the Senate proceeded to a second ballot.

Mr. Wilson withdrew the name of Mr. Nash. On the second ballot, Mr. Parsons received 14 votes, Mr. Davis 4 votes, and Mr. Nash 1 vote.

Mr. Parsons having received a majority of all the votes, was declared duly elected, and came forward and was qualified.

Mr. Taylor offered the following resolution:

*Resolved*, That at an extra session of the Legislature, no business should be considered, other than that recommended or suggested by the Governor.

On motion of Mr. Davis, the Senate took a recess of twenty minutes, preparatory to meeting in the House of Representatives, for the purpose of hearing the message of the Governor read.

Recess having expired, the Senate was called to order, and repaired to the Hall of the House of Representatives, for the purpose of hearing the Governor's message read.

The message of the Governor was then read as follows:

EXECUTIVE DEPARTMENT, STATE OF TEXAS, }  
AUSTIN, January 13, 1853. }

*To the Honorable the Senate,  
and House of Representatives:*

GENTLEMEN: The constitutional privilege of convening you in extraordinary session, has been exercised after a cautious investigation of its expediency; and having assembled in compli-

ance with the proclamation of the first of November, 1852, I greet you respectfully and kindly as the representatives of our common constituents.

In view of the manifold blessings which it has been our lot to enjoy under the guidance of a beneficent Providence since the adjournment of your Honorable body, it becomes us on the occasion of your re-union, humbly, and in the true spirit of thankfulness, to acknowledge the obligations which we owe to our Creator, and with deep humility of heart, to bless him for the distinguished manifestations of his kindness towards us as a favored Nation and State.

The summons which brings you to the Capital at this rigorous season of the year, imposes, I am aware, an unpleasant draft upon your personal convenience and comfort; and in that consideration, it was made with reluctance on my part. But, gentlemen, I should pay a very poor compliment to that exalted sense of patriotism which is supposed to exist in the mind of every man who is entrusted by a confiding people with a participation in the councils of the State, if I were to apologize to you for this temporary interference with your personal interest, involving as it does the pleasant endearments of home and family associations. Our predecessors, whose duty and labor it was to organize and put into successful operation the machinery of State government, accomplished the delicate and responsible task through turmoil, anxiety and disappointment.

The pioneers of independence in Texas, with still greater sacrifices of that repose and quietude so congenial to our natures, with fortitude and patient endurance, worthy of imitation, succeeded, after a doubtful and eventful struggle, in acquiring this sunny land of ours. They reared upon it institutions which are this day our pride and boast, and which it is our high trust to protect and mature.

Surely, then, we, who are the favored recipients of the substantial benefits achieved by their wisdom and valor, can under no circumstances, complain of the sacred obligation resting upon us to improve, enlarge, and if possible, perpetuate the glorious fabric which they have so nobly begun.

A grand field has been placed before us, cleared of its rubbish; its area is great—soil rich and deep—the culture and the harvest have been left for us all. It is a great moral field, and upon it may be gained a great moral triumph. It is temporarily committed to your charge.

A high sense of duty alone has induced me to convene the legislature. Were I at all timid in the position assumed by



this act, or desirous in any wise of lessening the weight of responsibility that is attached to it, I might safely rally upon the cumulative evidences of public opinion in my favor, obtained from many channels. I may safely, however, leave the wisdom and propriety of my course to be tested by the intrinsic importance of the several subjects which I shall have the honor to submit for your consideration. These I purpose to present as clearly as my humble abilities will allow, and as briefly as is consistent with a fair elucidation of them.

The past year has been distinguished by an unusual yield of the agricultural products of the State; and the superabundant returns of the husbandman find a ready demand in the tide of immigration now swelling to an unexampled extent. With few exceptions, general health has been enjoyed by the citizens of every section.

While, then, it affords me the highest satisfaction to congratulate you on the evidences of general prosperity pervading our limits, and the flattering prospect of an auspicious future, the unpleasant duty devolves on me of shading this otherwise bright picture, by alluding to certain existing evils which it is necessary to mention in order that they may be properly met.

In representing faithfully, as it is my duty to do, the desolate and ruined condition of a portion of our south-western frontier, and appealing again to your sense of justice for that relief which it was the sacred duty of the Federal government long since to have supplied, and at the same time soliciting your sanction of the measures of military defence I have deemed it my imperative duty to adopt, I disclaim any desire to charge the executive head of that government with neglect of duty towards, or want of a proper respect for, the just demands of our frontier. On the contrary, it affords me pleasure to express to you my belief that the President on this subject has been directed by enlarged and patriotic views. His recommendations to Congress in reference to the military defences of the country, have been in the main, wise and expedient. The complicate and arduous duties of that officer, exclude him, however, necessarily, from participation in the details of the various departments, and frequently devolve the execution of important measures upon the heads of those departments, the practical bearing of which, at the time, cannot be fully known to him. With this admission, cheerfully made, it is necessary for the sake of truth, and in defence of my own position, feelings and sense of justice, to separate the honorable Secretary of War from the President, and to hold him di-



rectly answerable for the false position he has assumed, and the gross injustice he has endeavored to perpetrate by the uncalled for and unauthorized language he has thought fit to employ in alluding to the volunteer service of this State. In a succeeding part of this communication, I may have occasion to allude to the position and language of the honorable Secretary.

In my message to the legislature of December 26th, 1849, in every subsequent general message, and in several special communications, I had the honor to advert to the situation of our frontier, making such explanations as exhibited its actual condition, and recommending such measures as would ensure peace and security to every portion of it. These references and suggestions failed to elicit any action from the legislature, and on the occurrence of the recent difficulties in the valley of the Rio Grande, the Executive was consequently left without any recourse beyond that conferred by the fourth section of the sixth article of the constitution, and the aids which that clause derived from the ordinary sympathies of, and appeals to humanity. Shortly after the adjournment of the legislature, intelligence reached me of the daily enactment of scenes along the line of the Rio Grande, especially from Laredo to Point Isabel, including also the country about El Paso, the prominent features of which were bloodshed and robbery. On the receipt of this information, I felt keenly the humility of my position, in the absolute want of means and well defined authority to render the required assistance to these bleeding sections. The obstacles to the recognition of a state military force, brought into the field under nearly similar circumstances by my immediate predecessor, and the reluctance and delay displayed in the adjustment of the necessary expenditure incurred thereby, are fresh in your recollection, and you will allow, were calculated to throw additional embarrassment in my way. Determined to be cautious in the adoption of measures involving heavy expenditures, and vigilant with reference to the true situation of affairs, I delayed for some time in restless anxiety, under the delusive hope that the existing troubles were not so serious, but that they might possibly be overcome by the united efforts of the sufferers, acting in conjunction with the regular military forces stationed in that quarter. Time, however, only served to introduce new and more aggravated disasters to this unfortunate valley, without the probability of adequate succor being afforded by the authority charged with the military defences of the country.



As a measure purely of self defence, the citizens of every trade and profession were driven at last to the extremity of organizing themselves into military corps, armed and equipped at their own expense, and of course at the sacrifice of all the advantages accruing to them from the ordinary pursuits of their several vocations. With every precaution, and after employing all the means within their power, they were yet daily subject to the unhappy fate of witnessing the recurrence of the most tragic scenes: their friends butchered—women and children dragged into hopeless captivity—their property destroyed or carried off, and in fine, every other act of rapacity and violence usual with, and characteristic of lawless associations of renegade Mexicans and savage Indians. With the actual existence of evils such as these, where could they more properly appeal for aid than to their immediate government, after having exhausted without effect, every appeal to the general government? The Executive does not feel conscious of committing a single error in this whole matter, unless it is to be found in delaying too long the adoption of a measure which ultimately he considered himself not only authorized, but compelled to pursue. The delay, however, was essentially necessary, in order that a suitable basis might be afforded for action in a pressing emergency. This emergency at length was fully ripe, and admitted of no further delay. Determined to leave nothing untried that would contribute to the relief of our suffering fellow-citizens of this valley, I resolved, as the last resort, to demand adequate and immediate protection from the commander of the military department which embraces this section.

Accordingly, I repaired, in person, to the head quarters of this officer, representing with what force I could, and in great candor, the merciless onslaughts to which these people were subjected, and the imperative necessity of supplying immediate and adequate assistance. My statements to him were accompanied with irrefutable proofs, derived from some of the most intelligent and reliable citizens of the Rio Grande. This officer, with commendable promptness, gave orders for several companies of mounted riflemen to march in the direction of the scene of trouble. The great object to be obtained, however, to give complete security to the lives and property of the sufferers, was nevertheless, in my belief, by this movement only half accomplished. I do not mean the slightest disparagement to the troops of our regular service. The highly intelligent and chivalric officers and brave men who have won laurels for the nation, will not suffer when brought in contrast with any regular



service in the world; but the circumstances under which these companies were to perform a very difficult duty, and the peculiar nature and great extent of the country in which they were to operate, rendered it highly improbable that they could do it in a complete and satisfactory manner.

A large portion of the mounted force despatched to the Rio Grande frontier, was composed of recruits, but a short time in the country, destitute of military experience on an Indian frontier, and wanting that local knowledge of the country without which even the most experienced rangers are unable to act with efficiency. Their horses, too, were unacclimated; a serious drawback, as all military men well know, when called on during the heat of summer to discharge active and arduous duties. Being fully persuaded of the justness of this view, I determined, if practicable, to bring into the field several companies of volunteer troops to act in concert with the regular force.

I communicated to General Smith the suggestion of my probable course, fully explained my reasons for it, and endeavored to obtain his concurrence. This, however, it appears in the sequel, I failed to do.

Shortly after my return to the seat of government, three suitable individuals, well known to the country, were designated by me with authority to raise, and bring into the service of the State, with the greatest possible despatch, a company of mounted volunteers each, armed and equipped for effective duty.— Full and explicit general instructions, relative to the nature of the service and the basis on which it was to be created, were issued to Colonel James S. Gillett, Adjutant General, who was directed to superintend the organization of the companies and muster them into service. But a few days elapsed ere the first company, well mounted and fully armed, were mustered into the service of the State with marching orders for a position on the Rio Grande, where their services were greatly needed; an occurrence highly creditable to the citizens who volunteered with such alacrity, and the officer charged with the duty of bringing them into the field. The difficulties presented by the great distance, and many other opposing obstacles, necessarily prolonged the time of mustering the remaining companies intended for operation on the lower Rio Grande. Within a reasonable period, however, they were mustered in respectively at Brownsville and Rio Grande City.

Having no means of obtaining ammunition and supplies for the support of this service, the Executive was compelled to throw himself upon the liberality and patriotism of the citizens



of the country. In this reliance it is most gratifying to state, that he was sustained. Gentlemen were found in San Antonio, Laredo, Corpus Christi, Brownsville and Rio Grande City, who nobly stepped forward to the rescue, by affording the necessary means of transportation and supplies, and thus enabling the service to be placed upon a firm footing. Such acts, under such circumstances, demand not only a speedy and willing recompence, but the award of praise.

By authority contained in his general instructions, the Adjutant General was directed to enter into contract for supplies in kind and quality such as are allowed in the regular service of the United States, to companies of like organization, and at such rates as he might deem equitable to the contractor and the State. Accordingly, certain contracts were made with individuals of the highest reputation for punctuality and good faith; and so far as I have been informed, they have been faithfully complied with. Duplicates of these are open to your inspection.

From the best information I can obtain, the volunteer companies have been performing good and effective service from the period they were assigned their respective stations, and the inhabitants of the Rio Grande valley have been greatly comforted by their presence. Indeed, the surest guaranty that such results would follow the creation of the service, was derived, in a great measure, from the high character of the officers selected to command it. Captain Shaw, a tried soldier, was known to possess untiring energy; and we find him, on the 22d September, shortly after his arrival at his post, engaged in a warm action with the Comanches, in which matters were so conducted as to secure an achievement highly creditable to the commander and his men. Perhaps few men of the day have acquired and deserved more reputation for high deeds as partisan warriors, than Captains Davis and Lewis; and I considered myself fortunate in procuring their services at such a juncture.

It is a matter of congratulation that my confidence in these officers has met the expectations of the country. Peace, security and confidence have, for a time, been restored to an interesting portion of the State, to which, for a long period, it had been a stranger.

Such a result is pleasing to contemplate, and calls loudly on your honorable body to award full compensation and reimbursement to all who have contributed to achieve it. This is due to the Executive, who, in this matter, has endeavored to



perform his duty in the true spirit of the Constitution and laws, to the brave officers and men who so promptly responded to his call, to the citizens who generously advanced their means, and to our suffering fellow-citizens of the border, whose isolated position excluded them from material advantages which other portions of the country possess. You will, I am sure, gentlemen, agree with me that such a measure is absolutely demanded, in vindication of the true position of the State, as regards her relative power with the General Government. The Executive does not urge any thing apologetic for his course, nor even asks aught in extenuation, but he most respectfully solicits the honorable Legislature to institute the enquiry: whether or not the General Government has afforded complete and satisfactory protection to our citizens residing on the Rio Grande frontier; and whether, if your decision be in the negative, it was not the duty of the State to supply the deficiency through her own means, and then demand reimbursement from the General Government? It was represented by the civil officers, that they were unable to enforce the laws, and that the regular forces stationed in that quarter could lend no aid to effect this object.

The Executive of the State by the 10th section of the 5th article of the constitution, is required "to take care that the laws be faithfully executed." He is authorized likewise, to call forth troops to suppress insurrection and repel invasion. I know but little of the political vocabulary of the honorable Secretary of War, and I have no information derived from his fame as a warrior, as to his choice of a military lexicon; but if he is not positively obdurate at heart, and his sympathies steeled against us, he must allow, as an intelligent man, that strong combinations of men organized on the west bank of the Rio Grande, and found moving in hostile array within our limits, with the blood of the slain to mark their footsteps, are truly characterized as invaders. Many a heart left ruined and desolate by their acts, can tell of invasion.

On the 20th of August, 1852, I addressed a communication direct to the President of the United States, informing him of the serious difficulties on the Rio Grande, and that in consequence of the inadequacy of the regular military force, I had felt it my duty to take immediate steps for its relief, and with that view had called into the service of the State three companies of mounted volunteers, to act in concert with the United States troops stationed in that quarter. I requested, likewise, that the General government, would at once recognize



the services of these troops, and make such further and more permanent disposition as upon examination should be found necessary to restore peace and security. Transcripts of various papers containing confirmation of the statement made in my communication to the President, were transmitted along with it. The communication and transcripts were very properly referred to the War Department, and here, in my estimation, all official propriety in this matter ended.

The Secretary says, "Your Excellency is probably aware that the Executive has repeatedly informed Congress that the military establishment of the country was inadequate to the protection of its widely extended frontier, and recommended that it be authorized to raise additional force for that purpose. Congress has seen fit to disregard these recommendations, at a time when the necessity for their adoption was more apparent than it is at present. Before the last adjournment of Congress, it was well known that there was reason to apprehend an extensive outbreak of the Indians on the frontier of Texas, and the very fact communicated in Your Excellency's letter, must have been known to the Senators and Representatives in Congress. Nevertheless, that body adjourned without taking any steps on the subject."

Here then, contained in this paragraph, is an unqualified admission by the Secretary, that the United States had failed to give adequate protection to the frontier of Texas. In view of the tragic events which occurred from time to time on the frontier, with this admission I might safely rest the propriety of the call for volunteers. "But Congress having adjourned without taking any steps on this subject," the honorable Secretary does not like responsibility, and relieves himself of the onus as follows:

"Within a few weeks past, the Department has been informed by the report of its officers, not only that the rumor that the Indians were preparing extensive hostilities, was unfounded, but that in fact, (with a few partail exceptions) they have not been for a long time as peaceable disposed. All accounts concur in representing the Comanches *as unusually quiet*; and by advices received from Colonel Summer, it appears that treaties of peace have been concluded with the Navajoes and Apaches, (the two most powerful nations on the confines of New Mexico and Texas;) that there are now treaties of peace with all the Indians in New Mexico; and, with the exception of some of the roving bands of the plains, the Indians in that section of country have ceased to be troublesome."



On the 30th of September, 1852, the honorable Secretary informed us "that all accounts concur in representing the Comanches as unusually quiet." On the 22d of the same month, Captain Shaw transmitted to me his official account of a severe fight with a party of that tribe, in which the Indians were signally defeated.

It must certainly be flattering to the General Government, that the humane policy toward the Indian tribes is about to be successfully carried out under the administration of Mr. Conrad, even in respect to the nomadic Comanche. The christian and the philanthropist will doubtless rejoice at the prospect of beholding the Navajoes and Apaches capable at no distant day of appreciating national and social obligations. Our far distant friends and fellow-citizens of El Paso, hitherto languishing under the pressure of difficulties, arising from Indian hostility on the announcement from such high authority "that with few exceptions the Indians in that section have ceased to be troublesome," will at once assemble and with bonfires and illuminations, they will chaunt hosannas to him who has wrought this happy consummation, and exulting over such an auspicious event, they will sit down with their red brethren under their own vine and fig tree, and smoke the calumet of peace. But with all these assurances of universal peace, I doubt if the good people of the Rio Grande will be comforted for the irreparable loss of their murdered relations and friends.

The Honorable Secretary continues—"under these circumstances, even if there were a manifest necessity for an additional increase of the military establishment, the Executive would hesitate to call into the service of the government a description of force, which, *while it is far less efficient than that which Congress refused to authorize*, is more expensive." In an official note to Mr. Howard, one of our representatives, after declining to authorize the muster of the volunteer companies into the service of the United States, he says, "I deem it proper to add, moreover, that volunteer companies thus organized, without the sanction and contrary to the judgment of the authorities properly charged with the defence of the country, have a tendency to create hostilities, and rather to endanger the peace of the frontier." Here, then, we have, in regard to our military history, a specimen of rare intelligence, and an official courtesy of which I sincerely wish we may have few examples. Amidst the gay, gaudy glare of the federal city, the great emporium of fashion and elegance, it is not wonderful that the Minister of War should forget the history of our country, even



so far back as the period when she made her transit from a Republic to a State of the Union.

Not possessing the necessary information, if the honorable Secretary had the virtue of patience, he might have learned, that Texas before she transferred her nationality, and with it her resources, to the Federal Union, had demonstrated the efficiency of her volunteer troops by a series of unparalleled successes over the common enemy, while, at the same time, she beat back from her borders hordes of their savage auxiliaries.

This is a matter of history.

If he had possessed the liberal and enlightened views of a statesman, combined with an adequate military knowledge of the wants of the frontier, he would have acted above the suspicion of prejudice, and afforded to democratic Texas the military aids she needed, and had a right to demand.

If with a proper sense of duty, he had possessed any of the milk of human kindness; instead of the cold, calculating, political communication, such as we have now to lament, the honorable Secretary would have confined himself to the propriety of stating that under existing laws, the volunteer companies mustered into the service of the State, could not be received, but that the Executive would recommend to Congress the justice of making the necessary appropriations to meet the contingency.

I will not, however, detain your honorable bodies with further comment upon the extraordinary views on this subject entertained by the honorable Secretary of War as expressed in his communication herein referred to. I only desire that the matter should be placed in a proper light, and not be subjected to the neglect which might enure from the indifference in reference to it so clearly manifested by that gentleman. The documentary evidence accompanying, will irrefutably prove the assertion that the regular troops in that quarter, were from nature and paucity, unequal to the task assigned them of protecting the inhabitants and their property, and, that under the refusal of the Federal government to take the necessary steps, there remained but two alternatives, either for the State to come forward and save them, or permit lawless bands of foreigners and savages to desolate the country, and seal their daily atrocities in their victims' blood.

Among the various papers connected with the subject herewith transmitted, I have the honor to lay before you an estimate of the probable expenditure caused by the mustering in of these volunteer troops, drawn up by the Adjutant-General of the State under my direction; and I respectfully ask that your



honorable bodies will make such an appropriation as will meet the contingency thus created.

The services of these three companies of volunteers, respectively, expire under their present term on the 18th of February, and 14th and 21st of March, 1853; and the state of affairs on the lower Rio Grande render it highly probable that a continuation of their services will be necessary; should it, therefore, be deemed by your honorable bodies advisable to continue all, or any of them, beyond that period, it is respectfully suggested that a further and suitable provision be made to cover the additional expenses thereby incurred.

The unfortunate situation of the upper Rio Grande, rendered it impracticable to furnish volunteers with the necessary supplies, and the Executive was consequently unable to render the protection they have so long needed and so earnestly solicited.

The accompanying documents, herein referred to, are marked A 1 to 32.

The adjustment and final settlement of our entire public debt, without further delay, is a subject of such immense importance, intimately connected as it is, in my judgment, with the immediate and prospective developments of the various resources of the State, and deeply involving her honor, that it should engage the most serious deliberation of your honorable bodies.

Near the close of the last session of Congress, several propositions in reference to this subject were laid before that body, and from the zeal with which they were pressed by their respective advocates, a reasonable expectation was indulged, although no final action was taken upon any of them, from the active and powerful influences likely to be renewed on the assembling of the present Congress, that some one of the proposed measures would be adopted; constituting thereby a sufficient basis for action on your part.

Influenced in a great measure by this consideration, I believed the day named in the proclamation for convoking you, the most auspicious that could be chosen.

It does not appear, however, that Congress has taken any definite action on any of these propositions; nevertheless, such is the urgency of this question to the State and her creditors, and I may add, to the United States, that I sincerely believe that it is a legitimate and proper one for discussion and action during your present session.

The financial committee of the United States Senate report-



ed a bill, the object of which was to pay the revenue debt of Texas at its face value, in three per cent. stock, cancelling the five millions of five per cent. stock due the State, under the boundary act of September 9, 1850.

The source from which this proposition emanates, certainly entitles it to respectful consideration; and if it is to be valued by Texas in the ratio of the pecuniary benefits likely to be derived from it, then indeed, she might, without ceremony, embrace it and rejoice over the bargain; but in this instance it is my honest conviction that we cannot faithfully serve our country and mammon too; and if a measure should be adopted by the Federal Government without the concurrence of the people of Texas, it will manifest an utter disregard of the sovereignty of the State, and should be indignantly repelled.

While the State of Texas would not object that the Congress of the United States should bestow upon the creditors of Texas, or upon any other class of her citizens, any gratuity which to that honorable body may seem expedient, yet we ought seriously and strenuously to protest against their assuming the adjudication of the character and amount of our liabilities, and the establishment of that amount in contravention of the rules which the State has adopted after much delay, discussion and embarrassment. And more especially ought we to protest against an appropriation of the money of the State by any authority other than her own Legislature, when the avowed object of the appropriation is to apply it in violation of the settled policy and laws of the State.

Does the five millions of dollars retained in the Federal Treasury belong to the United States? It does not. It is as much the property of Texas as was the five millions which have already been paid to her, and she alone has the right to prescribe in what manner it is to be applied. It is true that it is retained, unfortunately, with our assent, as a guaranty against the supposed liability of the General Government for certain debts of Texas, contracted prior to annexation—retained, however, only as a security, and without the shadow of a right to appropriate any portion of it.

The act of Congress in which this fund had its origin, was accepted by the people of this State as a measure of compromise, and it manifestly contemplated that it should be paid to the State; that payment to be withheld until a certain class of her creditors should file releases at the Federal Treasury of all claim against the United States for their debt; but by none of its provisions could it have been intended that these debts were



to be paid out of this fund by the officers of the United States Treasury, and much less could it have been contemplated that these officers, or Congress, or any other power than the State of Texas, should determine what was the amount of her indebtedness; and to assume to do so now will be a violation of the compromise act, and a direct insult to us, implying, as it would, a want of integrity on our part in the adjustment of the claims of our creditors.

Texas, as a sovereign State, claims the right to settle with her creditors and to pay them at her own treasury, without the intervention or interference of any other power; but whether they are to be paid here or at Washington City, is not, perhaps, a matter of sufficient importance to make it a subject of contest. We may well afford to waive all unmeaning punctilio in order to hasten the desirable consummation of paying the debt; but it is a question of very grave interest, and one which self-respect forbids us to yield, whether the payment is to be made according to our own ascertainment of the amounts respectively due to each one of the creditors, or whether the Congress, or the officers of the Treasury of the United States, are to determine that point for us.

A proposition has been made to Congress by a portion of the creditors of Texas, at whose head was General James Hamilton, a gentleman of enlightened views, who has always, I am happy to state, manifested respect towards Texas in all her embarrassments, and a willingness to settle with her, upon just and equitable principles, so to modify the provisions of the act of 1850, under which this money was retained in the Treasury, as to permit such of the creditors as were willing to file their releases to receive at once the amount which was due them according to the adjustment of their claims made under our laws. This proposition, so reasonable and just in itself, should, in my judgment, have received the sanction of Congress, without the slightest hesitation.

It is unnecessary again to call your attention to that strange provision of the law, (or, more properly, that strange construction of the law) under which the entire five millions are to be retained until every creditor has filed his release. It is a provision, (if the act has been properly construed) which must have been incorporated, without due reflection upon the effect of its practical operation, for we are not willing to entertain the belief that the Congress of the United States ever designed that one or two obstinate creditors should, by refusing to file their releases, have it in their power to defeat the efforts and



wishes of all the others and of the State in the final settlement of these claims; and yet such is, and will continue to be, the practical operation and effect of this provision, until it is modified in the manner proposed by the creditors to whom I have alluded.

The various questions connected with the public debt of the State, have been so often presented by me to the consideration of the Legislature, and have been so often discussed by it, that it would seem superfluous to employ any further argument in reference to the subject; still, it occurs to me that all hope is not yet lost, and that something may and should be done by us, to relieve the State from the unpleasant crisis hanging over her in consequence of her situation in this matter.

It appearing, thus far, that Congress has failed to take any action in either of the propositions to which I have referred, it may now be proper for you, as the representatives of the people of the State, to indicate by resolution or protest, the views which all who entertain a just sense of the rights of Texas and her sovereignty must maintain on this question.

The proposition contained in the bill of the finance committee of the Senate, was no doubt adopted from patriotic views, and with the best feelings for Texas. In her sovereign character, however, she claims the undeniable right to examine its material features, and judge of their merit. Believing, then, if this measure is allowed to pass tamely and without resistance, that it will sweep away with it every shadow of State sovereignty, I must be allowed to say it is, in my estimation, wholly inadmissible; nor is submission to it, in my judgment, the proper way to indicate our regard for the Federal Union or our relation to it. As a precedent it is dangerous and should be avoided. A very sagacious writer justly observes: "One precedent creates another. They soon accumulate and constitute law. What yesterday was fact, to-day is doctrine. Examples are supposed to justify the most dangerous measures, and when they do not suit exactly, the defect is supplied by analogy." The position which I now occupy towards my constituents and fellow-citizens, will soon cease to exist; but, in surrendering to them the high trust which they so generously confided to my hands, I should feel that I had acted the part of an unfaithful servant, if I fail to do all that is in my power to keep from their escutcheon the foul blot which, in my humble judgment, would tarnish it, were we tamely and silently to allow the Congress of the United States, or any other power, to interfere with our internal affairs and to assume their management without even extending to us the poor compliment of consulting us on the subject.



While these are my views as to the true position the State has a right to hold in reference to this reserved fund, it may still be worthy of consideration, inasmuch as she is at present paralyzed by the non-action of the Federal Government, and may probably remain so for a length of time, whether, under all the circumstances, it might not be expedient for Texas to consent to the issue of three per cent. bonds in amount equal to the face value of the revenue debt, as a substitution for an amount of five per cent. indemnity bonds equal to the scaled value of said debt as adjusted by the Auditorial Board. That is to say, in illustration, that the United States issue eight and a half millions of three per cent. stock on the surrender, by Texas, of four and a half millions of the stock due under the act of 1850.

I make this suggestion to your honorable bodies in view of the vital importance to the interest of the State that some plan should be adopted by which this vexatious and annoying subject may be settled consistently with the honor and rights of Texas, and unless some better plan shall be conceived by your collective intelligence, it may probably serve as a basis for your action in bringing this matter to a close, in a satisfactory manner, to the three interested parties, to wit: the State, her creditors, and the United States. It is to be distinctly understood, however, that the mode of adjustment adopted by Texas is equitable and just.

By the proposed plan, Texas loses nothing; the General Government, ultimately, is not greatly loser (as the difference between the rate of interest of the two stocks, three and five per cent., would almost, at maturity, amount to the excess of issue in the principal,) the creditors would be reconciled, and a satisfactory settlement of the debt effected. This is a mere suggestion thrown out with due deference for your consideration and better judgment.

The report of the State Treasurer and its accompanying statements marked B 1 to 5, herewith transmitted, gives a lucid exhibition of the transaction of his office for the fiscal year ending on 31st October, 1852. In drawing the particular attention of your honorable bodies to these important and interesting documents, I with pleasure recommend the adoption of the suggestion therein contained, and trust that the requested sanction will be given to the course that has been pursued by the Treasurer in the discharge of his arduous duties.

Since the adjournment of the Legislature, the subject of internal improvements has excited a lively interest throughout the State. Public meetings and conventions have been held at



various points, and at all of them there has been a decided expression of opinion in favor of some liberal and enlarged system, having for its object the connexion of the various points of the State by a rapid mode of intercommunication.

At one time the improvement of our rivers seems to have attracted the largest share of public attention, but it now appears to be generally conceded, that of themselves they will be incapable of affording the means of transportation and travel which the rapid settlement and vast resources of the country will require; and it is at the present time a question of serious consideration with many intelligent citizens, whether a large expenditure of money for the internal improvements of the State, and for the facilities of commerce would not be better applied to the construction of railways than to the opening of our water courses.

It is believed that no section of the Union is better adapted to the construction of roads than Texas. In many regions vast stretches of country would require very little grading, and the facility with which the ground could generally be prepared for the reception of the rails, would more than overbalance the inconvenience which might result from the scarcity of timber in some of the sections over which such roads would pass: an inconvenience that would hardly be felt, if the works were commenced at points where the advantages of the gulf would afford cheap transportation of iron and other material until the wood lands could be reached.

Hitherto several charters have been granted to individual companies, and if the routes thus authorized can be completed within a reasonable time, the advantages to the country would be incalculable. By a law of the last Legislature, a donation of eight sections of land of 640 acres each is granted for every mile of rail road that may be constructed by these companies, but, up to this period, that liberal act is inoperative as a means of capital in the hands of the companies for whose benefit it was intended.

Among the various plans discussed with a view to the accomplishment of this great object, two have been brought prominently before the public. The first is found in the bill which was before the House of Representatives at the last legislature, the features of which are no doubt familiar to your honorable bodies. In addition to the eight sections of land per mile to be given, the friends of that measure propose to set aside as a permanent internal improvement fund, some two and a half or three millions of dollars, to be loaned to such



rail road companies as shall within a reasonable time complete a given section of road upon any projected routes, in amount not to exceed \$4,000 per mile, and a like sum for each subsequent section that may be completed; such companies mortgaging all interest in the property of the road to the State, and paying an interest of five per centum per annum; which interest is to form a general educational fund. This is in effect a proposition for the State to set aside a specific amount of the money now in the Treasury, to be loaned to the respective companies in sums equal to about one-third of the cost of constructing the roads; and to be loaned only as the works progress, the State securing to herself a lien upon the investments made by the stockholders, and upon the whole road for the repayment of the sums loaned.

In addition to this, the advocates of this measure propose to provide for such prospective guarantees in regard to the landed donations as will enable the companies to anticipate the use of the lands as a means of procuring capital for the speedy completion of the projected works. They also propose that each county and town in the State shall be at liberty, by popular vote, to subscribe in their corporate capacity for such an amount of stock in any road or enterprise as they shall elect; the amount thus paid by each inhabitant to become a stock certificate; the whole system to be submitted by an enactment of the Legislature to the people, for their approval or rejection.

This cursory view of the general propositions contained in the plan referred to, it is believed, sufficiently embraces it. Its advocates urge with zeal that the system if adopted would speedily facilitate the construction of several useful enterprises. That the State would be secure in her loans, as the individual investments would preclude unprofitable routes or speculations—that the land donations would greatly enhance the residue left to the State—that the completion of valuable improvements would increase the wealth of the country, and add to its substantial taxable property—and that upon the return of the fund to the Treasury, it could again be invested in other works until every portion of the State would derive an equal share of its benefits.

The other plan, and the only one to which I shall also allude at present, was originally presented by the recommendation of a convention held at Galveston, and is perhaps familiar to most of you. This plan contemplates a scheme of internal improvements to be undertaken and conducted wholly by the State. These improvements, it is intended, shall supersede the indi-



vidual enterprises already authorized. To raise the necessary funds, it is proposed that the State should borrow the capital upon the faith of the public credit. A constitutional prohibition, it is admitted by the friends of the measure, stands in the way of this undertaking; and it is therefore proposed by them that the constitutional restriction be removed by submitting a proposition to the people to this end, and if effected, it is insisted that the State credit would more certainly raise the capital than any individual security.

I am not prepared to say that a change of the constitution in this respect would be either wise or salutary in the present attitude of our State affairs. The inhibition against loaning the credit of the State, was intended, and I think wisely so, to avoid the embarrassments into which the Republic of Texas and many of the States of the Union had fallen. Without such inhibition, combinations, or hasty legislation might lead to such improvident uses of State credit as would involve difficulties requiring years for their removal; and although it might seem to afford a temporary impetus to the prosperity of the country, yet would result ultimately in the prostration of its energies and power.

I likewise entertain doubts of the propriety of the State engaging in works of internal improvement, to the exclusion of all individual enterprise. Experience has shown that governments pay higher for public works or supplies than individuals engaged in similar undertakings, and there is, generally speaking, much less dispatch in their prosecution. The capital invested by individuals prompts them to energy and economy, while public agents have not the same incentives of personal interest to urge them to either the one or the other.

It has occurred to the Executive, that the first plan is, in fact, what the second is confessedly, subject to constitutional objections, inasmuch as no appropriation can be made for purposes of internal improvement for a longer period than two years. It is believed, however, that no such constitutional objection exists as regards appropriations for purposes of education. The whole spirit of our legislation shows that this great object was not only intended to be, but should be paramount to all others in receiving the fostering care of the government.

I am not prepared to say what amount of money now in the Treasury could be spared for this purpose, after a fair adjustment of the public debt. It seems to me, however, if this difficulty were fairly adjusted, the friends of the great interest of internal improvements might unite upon a plan which would



accomplish their favorite object, without being sectional in its character, or infringing upon any constitutional inhibition. The Legislature might appropriate any sum of the United States bonds, now in the Treasury, which could be spared without injury to the public faith, as a permanent education fund. Then, as a secure investment of that fund, its loan might be authorized, under certain prescribed guarantees, to such railway companies as should have completed, and have in successful operations, a certain section of road; (the longer the section the greater the security to the State;) the sums loaned not to exceed one-third of the cost, at a minimum price, and increasing the loans with the progress of the road: the State to be secured by preferred mortgages upon the roads, and the loans only to be continued until the principal and interest reimbursed could be profitably invested in some general system of education.

It is believed that a system embracing these general features, aided by donations of land would, if judiciously granted for a few years, ensure the employment of sufficient private capital to construct a few prominent roads, such as are now most strongly required by the wants of the three great sections of our State. It has been estimated upon demonstrable calculations, that the active employment of such a capital for seven years, would add over one half to the original investments made by the State, and, if continued for seventeen years, the original amount would be nearly trebled.

In presenting to you the several features of these different plans, I am only influenced by a desire to lay before you such information as I have in relation to a subject which now occupies so large a share of public attention.

Whilst I acknowledge to you, and to the country, that I am in favor of the construction of railroads, as well as the improvement of our principal rivers, upon a well devised system, to be based upon the true resources of the country, and adapted to its wants, I must at the same time confess that I regard it as secondary to a full and fair adjustment of our public debt as ascertained by the Auditor and Comptroller. That the State has money in her Treasury beyond what is necessary for the ordinary support of the government, presents, in my estimation, the strongest argument for the payment of her debt; and until this is done, or some certain provision made for that object, the appropriation of the money to other purposes would be exercising bad faith towards her creditors, and would inevitably depress her character abroad, to a greater extent than the accomplishment of the most stupendous system of internal im-



provements could elevate it. Nations, like individuals, should be just in the performance of their engagements, and whenever they depart from this well recognized principle of ethics, however tempting may be the lure that draws them off, they will suffer, and they deserve to suffer in the estimation of the civilized world.

It is my anxious desire, then, that in our zeal, laudable though it be, to develop the resources and add to the prosperity of our State, we should do nothing that would cast a blemish upon her good faith. Let this be kept free from stain, and I will go "heart in hand" with you, in any measure of internal improvement calculated to advance her interest, and give her a prominent place among the States of our glorious Union.

The views, gentlemen, which I have thus imperfectly submitted, are intended more for the purpose of calling your attention to an important subject, than with a view of giving any directions to your deliberations and action upon it.

It is manifest from the lively interest pervading the country on this subject, and the great prominence it has attained, that some action will be expected from you in reference to it. In passing from it I will only add, that it will give me pleasure to co-operate with you in any measures connected with this important matter, should I find them, on examination, consonant with my notions of sound policy, and the duties imposed by my constitutional oath.

The enactment of a law to apportion representation throughout the State in accordance with the provisions of the constitution, is imperatively required at your present session.

A bill for this purpose was passed at the last regular session of the legislature. The circumstances under which it was presented to me, are well known to you, and I presume to the country generally. It is sufficient to state that, although this bill was reported on the 15th day of January last, it was not presented to me until 10 o'clock of the night of the 16th of February following; one hour before the time fixed by the legislature for its adjournment. During this short interval, other bills were presented for Executive action, so that it was impossible for me to read over and duly examine the provisions of the important and complex act in question, and enable me either to approve the same or return it with my objections.

The whole responsibility, therefore, of approving or rejecting the bill, was thus thrown upon the Executive, without affording him any opportunity of examining its merits. No other altern-



ative was left him, but either to withhold his sanction from the bill, or *blindly* approve it.

Under these circumstances, and as a co-ordinate branch of the law-making power, having equal privileges granted to, and responsibilities imposed on me, the course which duty dictated was promptly taken. I did not sign the bill. Subsequent reflection convinced me of the propriety of the course pursued; for it is admitted in all sincerity that the bill could not have met my approval.

To my mind its most objectionable feature was, that it provided for an increase of the representation in each House to the maximum allowed by the constitution. In this sudden and uncalled for increase of representation, I could see nothing but evil. A large additional expense to the State government, together with greater delay, confusion and difficulty, would be its inevitable result.

The bill, moreover, in many of its details, appeared to me partial and unjust.

Admitting, as I do, the impracticability of framing an apportionment which will be equal and just in all its provisions, yet I feel confident that you can devise one which will more nearly attain such a result than the bill referred to.

In connection with this subject it is proper that I should mention the necessity that exists for a classification of the Senate, as required by the constitution.

By an act of the State legislature, approved May 7th, 1846, entitled "an act to authorize the Governor to procure and have copied for the benefit of the several counties of the State, a full set of weights and measures in conformity to the standard now used and adopted by the government of the United States, and providing for the distribution of the same," it was evidently intended by that body to provide for the contingency thereby presented; but in consequence of a failure on their part to make any appropriation to meet the disbursement thus created, the Executive has not been able to comply with the requirements of the act.

The attention of the following legislature was drawn to the subject by my immediate predecessor, Governor Wood, in his general message of November 6th, 1849, in which he remarks in reference to the subject: "The Chief Justices of several counties have written to the Executive, asking to be provided with a copy of these for their respective counties, in accordance with this law. In consequence, however, of no appropriation



having been made to enable the Executive to carry this law into effect, it has remained a dead letter on our statute book. The United States government forwarded to this State a full set of weights and measures, but when they were about being set up, in pursuance of my direction, at Galveston, they were found to be in an unfit condition for use. I am advised, however, that with a small outlay, they can be repaired." No action, however, appears to have been taken on His Excellency's recommendation, and consequently the requisition of the act referred to, has not yet been complied with. The applications to this Department have been renewed by several of the counties, and I therefore trust that your honorable body, in view of the growing importance of the matter, correlative as it is with the increasing population and mercantile interests of the State, will make such an appropriation as will cover all the expenses that will be occasioned by carrying out the provisions of said act, and suitable rooms for the storage and safe keeping of the articles to be procured.

Although you are convened for special purposes, and are not expected by your constituents to enter into general legislation, I cannot refrain from a renewal of the recommendation in my last general message, relative to a geological reconnoissance of the State. Private enterprise has led to so many discoveries, and has so far outstripped the State in this matter, that the subject has created a powerful interest, and its neglect by the government a general reproach. An able and minute examination would, at no distant day, repay the State a thousand fold for the outlay incurred by the survey. It is, moreover, especially necessary that we should possess a knowledge of the resources of the south-western and northern portions, from the probability that a negotiation will be entered into shortly with the Federal Government for the purpose of setting apart a portion of country for the location of Indians; and in this event substantial benefits might be transferred, and consequently lost to the State, for want of a proper knowledge of their existence.

It is with much regret, I am again under the necessity of calling your attention to the condition of Petters' Colony.

It was anxiously hoped and believed, by those who were instrumental in the enactment of the law of the 10th of February last, relating to lands in this colony, that it would give quiet and repose to that section of our State. But so far from this having been the case, difficulties have arisen since that time, most unfortunate in their character and result, not only to the contractors and colonist, but to the State itself.



From the best information I can obtain, it appears that the relinquishment and release required by the first section of the law was made by the Agent of the Company, Henry O. Hedgcock, Esq., within twenty days after the passage of the same, and after he had given bond and duly qualified in accordance with the provisions of said act; and the certificates for the 1,700 sections of land, granted to the "Texan Emigration and Land Company," were regularly issued and delivered to the Agent, by the Commissioner of the General Landoffice.

I am sorry to say that in the discharge of the various duties imposed upon the Agent by the act in question, serious misunderstandings arose between him and many persons in the colony, growing for the most part, I presume, out of different constructions given to the law, and to some extent, perhaps, from an oversensitiveness consequent from previous misunderstandings between them. Whatever may have been the causes, the excitement on the part of the colonists at length became so great, that on the 16th day of July last, a large number of persons violently seized upon the files of almost all the colonists, together with many books and records of the Agent, and by threats forced him to abandon his office and leave the country.

I herewith transmit to you the Agent's report of his proceedings under the law, and of this unfortunate and ill advised movement.

I also transmit two other documents received from citizens resident in that quarter, giving their account of the affair, and urging upon the Executive the necessity of an extra session, in order that further legislation might be had in reference to the colony.

A complete return from the Agent was thus defeated, and consequently the Commissioner of the General Landoffice has not felt authorized to issue patents.

The returns made to the Commissioner of the General Landoffice, will of course be submitted to your inspection. Indeed it will be the peculiar province of the Legislature carefully to examine the whole subject, in order to determine what further action may be necessary, to give quiet to that section of the country, to secure the rights respectively guaranteed by the State, to the colonists and to the contractors, and to relieve the State from the embarrassment caused by the existing condition of the affairs of the colony.

It does not become me, nor do I conceive it to be my duty, to interpret the various laws which have been enacted, and which in their practical operations have led to this controversy.



This is the peculiar province of the judicial tribunals of the country.

Whatever may be the rights of the respective parties, under the law, my feelings towards the colonists who have endured all the hardships and privations of an exposed Indian frontier, induce me to express the hope that their actual settlements and improvements may be secured to them and their families.

But in the expression of this sentiment, I wish it distinctly understood, that no matter what hardships may have been imposed by these laws, either upon the contractors or colonists, or what constructions may have been given to them from any quarter, I do not sanction or approve the course pursued towards the Agent of the company. We have laws, and courts to administer them. If rights are violated they can be legally redressed. In my opinion, both as the Governor of the State, and as a private citizen, nothing but an extreme case can justify a resort to violence by any portion of our citizens, or the seeking redress by any other means than those offered and sanctioned by the laws of the land.

From the commencement of her existence, Texas has ever been kind and liberal to the actual settlers upon her soil, no matter by what tenure they held it. Whether as colonists, or as emigrants, they have ever been regarded by the government as a favored class, and by a generous system of legislation have been secured in, or enabled to obtain the lands claimed by them. A like liberal course has, I think, been pursued by the Legislature towards the settlers in Peters' Colony, as well as towards the contractors. In giving my assent to the law of the 10th February last, it was with the confident belief that the rights and interests of all the parties concerned, were fully protected. If the true meaning and intent of the law is given to it, such, I still think, will be its legitimate effect.

The Executive has been much censured for his approval of the act of the last Legislature, in relation to this colony, by which the contractors are to receive 1,700 sections of land; he therefore wishes it to be remembered that he had no part in framing the original contract on which this enactment was based.

After all the legislation which has been had upon this subject, attended as it has been by the present deplorable results, I confess myself unable on this occasion to suggest anything which may relieve the matter of its embarrassment, further than to recommend mutual good will and forbearance on the part of the company and colonists, as well as the friends of



both. Should this spirit control, I have no doubt it will be easy for you to devise some plan to reconcile their differences, and I will give my hearty co-operation and assent to any measure which will have this effect.

As an earnest that such a feeling will actuate all parties concerned, I indulge the hope, and earnestly recommend, that the papers of the colonists and property of the company may be restored to the custody of the officer authorized to receive them.

I also deem it proper to call your attention to a document herewith transmitted, addressed to the Executive, and signed by many of the oldest and most respectable citizens of Bastrop, Fayette and Lavaca. From this it appears that near five hundred square miles of territory, embraced in the counties aforesaid, comprising some of the richest lands in the Colorado valley, and which, until recently, was supposed to be in Austin's Old Colony, really lie without the limits of the same.

Titles to a great deal of the most valuable land in this territory were long since issued by the commissioners of Austin's Colony, to those who settled as colonists, under the confident belief, no doubt, that they were within the limits of the colony. That such is not the case, however, has lately been ascertained beyond all doubt.

It is evident, therefore, that those holding, or claiming these lands, under titles issued by the commissioner of Austin's Colony, are subject, under existing circumstances, to have their titles contested. In order that this evil may be avoided, and injustice towards a most meritorious portion of our citizens prevented, I respectfully recommend some legislative action which will confirm and quiet the titles issued originally to colonists in the territory above referred to.

The third legislature of Texas passed a joint resolution, authorizing the procurement of a block of native marble, or granite, or some other durable rock, and required the Executive to have the same transmitted to Washington City for the purpose of being placed in the National Monument to be there erected to the memory of Washington. The meagre appropriation under the resolution rendered it inoperative. The fourth legislature, in view of its manifest deficiency, authorized the sum of one thousand dollars to be used for that purpose. Under this authority the Executive engaged the services of Major Thomas S. Smith, an enterprising and well known citizen, to obtain various specimens of marble or granite, with a view of making a selection that would appropriately represent the State of Texas in this great national structure. This gentleman, by his indus-



try and perseverance, supplied the want of a geological knowledge of the country, and within a short space of time procured a block of marble with fineness of texture and beauty of appearance that rendered it an acceptable contribution. He was directed to superintend its transportation in person to Washington City. Its reception has been acknowledged by Eli Whittlesey, Esq., the agent of the board of managers, in a letter complimentary to the State for the beautiful stone which she had transmitted. As directed in the resolution, the coat of arms with an appropriate motto, will be inscribed, and the block will soon occupy an honorable position in the Monument.

Major Smith has executed his mission in a highly satisfactory manner, and I commend his services to the legislature as entitling him to an additional compensation beyond that which the Executive will be enabled to command under the existing appropriation.

The documents relative to the subject, herewith transmitted, are marked C 1 and 2.

Since your adjournment, death has deprived us of our fellow-citizen and friend, Adolphus Sterne, late a member of your honorable body. His long identification with the Republic and State, and his eminent services enable us to form a just estimate of his worth. It is the universal sentiment that you have lost from your councils a good man and a tried patriot—the country, a useful citizen. The enunciation of his name awakens our sympathies in unison with those of his family and friends, and will suggest to your honorable bodies the propriety of manifesting a proper respect for his memory.

Although South Carolina, Kentucky and Massachusetts, claim, respectively, Calhoun, Clay and Webster, the nation mourns their loss, and each member of our Union desires the privilege of joining in the sorrow. Each claiming during their lives a particular State, so soon as they passed this earthly bourne, from the rich legacy they bequeathed to their country in the noble principles they promulgated, their fame was limited only by the duration of time; while their residence was transferred to another and a better sphere—in eternity.

P. H. BELL.